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इस भाग में भिन्न पृष्ठ संख्या वी जाती हैं जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed  
as a separate compilation

### LOK SABHA

The following Report of the Joint Committee on the Bill to provide for better organization and development of secondary education in the Union Territory of Delhi, was presented to Lok Sabha on the 1st April, 1966:—

#### Composition of the Joint Committee

Shri T. H. Sonavane—Chairman.

#### MEMBERS

##### Lok Sabha

2. Shrimati Renuka Devi Barkataki
3. Shri A. E. T. Barrow
4. Shri Parashottamdas Haribhai Bheel
5. Choudhury Brahm Perkash
6. Shri S. N. Chaturvedi
7. Shri Vijayasinhrao Ramarao Dafle
8. Shri Sudhansu Bhushan Das

9. Shri Gokaran Prasad
10. Shri Shiv Charan Gupta
11. Shri Hem Barua
12. Shri Krishnan Manoharan
13. Shri Rama Chandra Mallick
14. Shri Yamuna Prasad Mandal
15. Shri Mali Mariyappa
16. Shri P. Muthiah
17. Shri P. K. Vasudevan Nair
18. Shri S. Osman Ali Khan
19. Shri Naval Prabhakar
20. Shri Rananjaya Singh
21. Shri Shivram Rango Rane
22. Shri Ratan Lal
23. Shrimati Jayaben Shah
24. Shri Diwan Chand Sharma
25. Dr. (Mrs.) T. S. Soundaram Ramachandran
26. Shri G. G. Swell
27. Shri Krishna Deo Tripathi
28. Shri Tula Ram
29. Shrimati Vijaya Raje
30. Shri Vishram Prasad

*Rajya Sabha*

31. Shri P. Abraham
32. Shrimati Anis Kidwai
33. Shri K. Damodaran
34. Shri Jairamdas Daulatram
35. Shrimati Devaki Gopidas
36. Shri I. K. Gujral
37. Prof. Mukut Behari Lal
38. Shri P. C. Mitra
39. Shri B. C. Nanjundalya
40. Shri Deokinandan Narayan
41. Shri Santokh Singh
42. Shri Devi Singh

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- 43. Kumari Shanta Vasisht
- 44. Col. B. H. Zaidi
- 45. Shri M. C. Chagla

DRAFTSMEN

- 1. Shri K. K. Sundaram, *Joint Secretary and Draftsman, Ministry of Law.*
- 2. Shri A. K. Srinivasamurthy, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF THE MINISTRY

- 1. Shri L. C. Joshi, *Joint Secretary, Ministry of Education.*
- 2. Shrimati L. W. Dhume, *Deputy Secretary, Ministry of Education.*
- 3. Shri B. S. Verma, *Under Secretary, Ministry of Education.*
- 4. Shri B. D. Bhatt, *Director of Education, Delhi*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

## REPORT OF THE JOINT COMMITTEE

I, the Chairman of the Joint Committee to which the Bill\* to provide for better organisation and development of secondary education in the Union Territory of Delhi was referred, having been authorised to submit the report on their behalf, present their Report, with the Bill as amended by the Committee, annexed thereto.

2. The Bill was introduced in Lok Sabha on the 9th December, 1964. The motion for consideration of the Bill was moved in Lok Sabha by Shri M. C. Chagla, the Minister of Education, on the 26th November, 1965. An amendment to the motion, for reference of the Bill to a Joint Committee, was moved by Shri Naval Prabhakar on the 26th November, 1965 and was discussed and adopted on the 29th November, 1965.

3. Rajya Sabha discussed, and concurred in, the said motion on the 10th December, 1965.

4. The message from Rajya Sabha was published in the Lok Sabha Bulletin, Part II, dated the 13th December, 1965.

5. The Committee held thirteen sittings in all.

6. The first sitting of the Committee was held on 14th December, 1965, to draw up a programme of work. The Committee, at this sitting, decided to hear evidence of educational institutions, associations, public bodies etc. desirous of presenting their views or suggestions before the Committee and to issue a press communique inviting memoranda for the purpose by the 27th December, 1965.

At this sitting, the Committee also decided to form Study Groups to visit various Higher Secondary Schools in Delhi for an on-the-spot study of their working and other conditions.

7. Twenty-four memoranda/representations on the Bill were received by the Committee from different associations/individuals.

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\*Published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 9th December, 1964.

8. On the 10th January, 1966, the Committee divided themselves into seven Study Groups and visited forty-two Higher Secondary Schools in Delhi for an on-the-spot study of their working. At the schools visited, the members of the Committee saw the conditions of the schools, facilities and amenities available there for the students and teachers, such as accommodation, furniture, laboratories, library, play-grounds, sanitary facilities, seating arrangements etc. The members of the various Study Groups also elicited, at the schools visited, information regarding management of the schools, fees or other levies charged from the students and funds received from Government, the strength, qualifications, mode of appointment and conditions of service of the staff and whether payment of salaries to them was made in time and regularly, mode of admissions to schools, percentage of result etc.

9. The Committee were due to commence hearing of oral evidence from the 11th January, 1966, but owing to the sad and sudden demise of the late Prime Minister Lal Bahadur Shastri, the Committee had to postpone\* hearing of oral evidence till the 14th January, 1966.

10. At their fourth to seventh sittings held on the 14th January and 7th to 9th February, 1966, respectively, the Committee heard the evidence given by 15 Associations/individuals.

11. The Committee have decided that the evidence given before them should be printed and laid on the Tables of both the Houses *in extenso*.

12. The Committee considered the Bill clause-by-clause at their eighth to twelfth sittings held on the 16th to 18th, 23rd and 24th March, 1966 respectively.

13. The Report of the Committee was to be presented by the first day of the Fourteenth Session of Lok Sabha. As this could not be done, the Committee requested for extension of time upto the 31st March, 1966 which was granted by the House on the 15th February, 1966.

14. The Committee considered, and adopted, their Report on the 30th March, 1966.

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\*The second sitting of the Committee held on the 11th January, 1966, adjourned immediately after adopting a condolence resolution on the passing away of the late Prime Minister Lal Bahadur Shastri.

15. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in succeeding paragraphs.

16. *Clause 2.* The Committee feel that—

- (i) the officer other than an Inspector of schools, to be authorised by the Administrator to perform the functions of the latter, should not be below the rank of a Deputy Inspector of Schools;
- (ii) the appointment of a manager of a school by its Managing Committee should not be subject to approval by the Director of Education; and
- (iii) "secondary education" may also be part-time.

The clause has been amended accordingly.

17. *Clause 3.* It was represented to the Committee that if recognition of a school was denied merely on the ground that it was named after a sect or caste, it would create difficulties in the way of several private aided schools. The Committee feel that recognition should not be refused to a school merely on the ground of its name if it satisfied all the other conditions prescribed in this behalf. The Committee also feel that other conditions of recognition of a school e.g. adequate accommodation, sanitary facilities, approved courses of study, teachers with prescribed qualifications, regular contract of service between the Managing Committee and its employees etc. should be more elaborately stated in the Bill.

The Committee feel that although schools administered by Government need not formally seek recognition from the Director or other prescribed authority, they should also fulfil the same requirements regarding qualitative standards and physical facilities as are expected of private schools seeking recognition. There should also be a provision for appeal against refusal to recognize generally.

The clause has been amended accordingly. The other amendments are of a consequential and drafting nature.

18. *Clause 5.* The Committee feel that the Administrator should also have the power to amend the model scheme and the managements be required to submit revised schemes for the Administrator's approval. The Committee are of the view that, besides publication of the "model scheme", or an amendment thereof, in the Official Gazette, the Director of Education should also send a copy thereof to every recognised school within 15 days of such publication, so that

each school knows about it in time and takes further action to prepare its own scheme on this model. The period of 15 days from the publication of the model scheme is too short a period for the Managing Committee of an existing school to prepare and submit to the Administrator its own scheme of management. This period should be extended to sixty days. A time limit of 90 days should be fixed within which the Administrator should take a decision in respect of the scheme submitted by the management. If the Administrator does not send any objection to, or modification of, the scheme within this limit, the scheme as submitted by the Managing Committee should be deemed to have been approved.

It is not necessary to provide specifically for representation of teachers on the Management Committee—it would be better to specify the broad objectives of this provision regarding scheme of management and to give to the Administrator discretion to accept departures from the model scheme in view of special features and needs of a school.

A suggestion was made that the Bill should provide for separate schemes of management for aided and unaided schools and that these schemes should be embodied in a Schedule to the Bill. The Committee feel that the scheme of management of schools is a matter of detail and need not be incorporated in the Bill. It is enough to indicate in this clause the specific objects of the scheme of management for all schools.

The Committee are further of the view that schools administered by Government or a local authority should not have a scheme of management as provided for other recognised schools, but the rules to be framed under the Act should prescribe the manner in which these schools will be administered.

The clause has been amended accordingly. Other amendments are either of a clarificatory or drafting nature.

19. *Clause 6.* The Committee feel that the appointment of the manager of a school should not be subject to the approval of the Director of Education, and that the manager should be appointed from amongst the members of the Managing Committee of the school. The clause has been amended accordingly. The other amendments are of a drafting nature.

20. *Clause 7.* The Committee feel that, in the interests of completion of studies by students enrolled in a school, and to make their transition to another school easy, no school or class in that school should be permitted to be closed before the expiry of the academic

year and that notice for the proposed closure should be given by the management not less than six months prior to such expiry. Where a school or a class in a school has been closed or where the Director has arranged to manage the school or class or where recognition of a school is withdrawn, it should be sufficient if the manager affords all reasonable facilities to the Director, or any authority authorised by him, to have access to, and take extracts from, all the records and accounts of the school instead of making over the records and accounts to the Director or the authority authorised by him.

The clause has been amended accordingly. The other amendments are of a drafting nature.

21. Clause 8. The Committee feel that this clause about removal of a manager should not apply to unaided schools and even in respect of aided schools removal should not be ordered by the Director: it is for the management who would appoint him (vide the amended clause 6) to remove him. The clause has been amended accordingly.

22. Clause 9. In order to ensure that salaries etc. of teachers and other employees of a school are paid to them in time, the Committee have redrafted sub-clause (4) of the clause to provide that out of the aid given to a school for salaries and allowances of teachers and other employees, no payment shall be made or committed to be made for any other purpose.

The other amendments made are of a drafting nature.

23. Clause 10. The Committee are of the view that if the Administrator fails to make an order within a time limit viz. 30 days of receipt of an application for permission to transfer or lease any immovable property of an aided school, the permission should be deemed to have been granted. This will ensure that there is no undue delay in disposal of such applications by the Administrator. The clause has been amended accordingly.

24. Clause 11. The Committee feel that the management should have the authority to suspend a teacher of an aided school without prior permission of the Director; but, where a teacher is so suspended by the management, the Director of Education should be intimated forthwith and, if he is satisfied that there are no adequate and reasonable grounds for such suspension, he should have the power to revoke the order of suspension. Besides the aggrieved teacher, the management should also have a right of appeal to the prescribed authority against the Director's order withholding previous sanction for dismissal, removal or reduction in rank of a teacher.

The clause has been amended accordingly.

The other amendments are of a drafting nature.

25. *Clause 12.* The Committee are of the view that if salaries of teachers or other employees of an aided school are not disbursed every month by the Managing Committee or the Manager, as the case may be, the Director should have the power to recover from them the aid paid for this purpose and the Managing Committee's share, if any, towards the salaries of teachers, so that the Director might himself disburse the same to the teachers and other employees.

The Committee also feel that pending a decision by the prescribed authority in any dispute regarding salary or other allowances of a teacher or an employee and the management, it should be open to the teacher or the employee concerned to accept or not to accept the amount, if any, offered to him by the management or the Director. There need be no statutory provision compelling him to accept the provisional sums offered. The proviso to sub-clause (3) of the clause has, therefore, been omitted.

The clause has been amended accordingly. The other amendments are of a drafting nature.

26. *Clause 13.* The Committee feel that for the purpose of conducting public examination, schools administered by a local authority should also be affiliated to the Central Board of Secondary Education and there should be an enabling provision authorising the Director of Education to exempt from affiliation to the Board such schools as may, on the grounds of their special features or needs, deserve such special exemption.

The clause has been substituted accordingly.

27. *Clause 14.* It was represented to the Committee that a large number of aided as well as non-aided schools in Delhi collected fees and other charges, such as voluntary donations for improvement of school amenities, construction of buildings etc. and such charges were often in excess of the prescribed or permitted rates.

The Committee feel that prior approval of the Director should be obtained by all schools whether aided or not for collection of fees or other charges as also when they propose to levy a fee or charge

in excess of the prescribed rates. The fees and charges for unaided schools may be at rates different from those for aided schools, as such schools have to maintain themselves on their own resources.

The clause has been amended accordingly.

28. *Clause 15.* The Committee feel that there should be no upper age limit to pursuing secondary education. They are mindful of the desirability of keeping the students of tender age separate from over-age persons, who may not be a healthy influence on the youngsters. But that can be left to the discretion of the school administrations. The Committee have, therefore, omitted the sub-clause prohibiting retention in school of persons who have attained the age of 20 years.

The other amendments are of a drafting nature.

29. *Clause 16.*—It was represented to the Committee that in the School Fund should be credited only amounts such as the aid given to the school, income accruing to the school by way of fees or other charges and the Managing Committee's contribution towards the expenses of the school. Otherwise the Management will not have any resources from which to meet their share of recurring or non-recurring expenditure. Nevertheless, all other contributions, endowments, donations and the like, for the maintenance, development and improvement of the school should constitute a separate fund called "Management's Reserve Fund", with a safeguard that this will also be spent on the school and not utilised by the management for any purpose unconnected with the school.

The Committee feel that there should be a separate clause specifically providing for the establishment of other Funds required for the school with the permission of the Director.

The clause has been redrafted to make this clear.

30. *Clause 17.* The Committee feel that the Managing Committee of a school, whose aid has been stopped or suspended, should have a right of appeal to the prescribed authority. A new sub-clause has been added accordingly.

The other amendments are either of a drafting or consequential nature.

31. *Clause 18.* The Committee are of the opinion that the provisions of this clause for taking over of aided schools should not

apply to schools established and administered, or managed, by such minorities as have the right to do so under Article 30 of the Constitution. A new sub-clause has been added accordingly.

The other amendments are of a drafting and clarificatory nature.

32. *Clause 20.* The Committee are of the opinion that the Advisory Committee should have the authority to discuss not only matters referred to it by the Director but also any other matter arising out of this law which may be raised by any three members of the Advisory Committee. Further, the Director should not decide matters such as refusal or withdrawal of recognition of a school, any action against the manager, or stoppage of aid etc. under clause 17(4), without consulting the Advisory Committee. If the Director does not accept the advice of the Advisory Committee on these matters, the Bill should provide that the matter should be decided by the Administrator and not by the Director himself.

The Committee further feel that the composition of the Advisory Committee which may be decided by the Government in accordance with rules that may be prescribed should be such as to include eminent educationists, Members of Parliament and representatives of school managements and teachers.

The clause has been re-drafted accordingly.

33. (*Original Clause 21*). The Committee have omitted this clause as being redundant in view of the amended provisions of clause 3 which stipulate the conditions necessary for recognition of the schools, clause 17 authorising the Director to give directions regarding defects and deficiencies noticed in inspections and also in view of the rule-making powers conferred on the Central Government in this behalf under clause 25 (*Original clause 26*).

34. *Clause 21 (Original clause 22).* The Committee are of the view that the powers duties and functions of the Central Government under this measure should not be delegated to any officer other than the Administrator or the Director. The clause has been amended accordingly.

35. *Clause 24 (Original clause 25).* The amendment made is of a clarificatory nature.

36. *Clause 25 (Original clause 26).* The Committee are of the view that the rules made by Central Government should also prescribe the qualifications of teachers in recognised schools, the

approved courses of study and other items specified in the amended clause 3 regarding recognition and lay down the detailed constitution of the Advisory Committee (proposed in clause 20), its strength, procedure to be followed at its meeting etc. The clause has been amended accordingly.

The other amendments made are either of drafting or consequential nature.

37. The Committee recommend that the Bill as amended be passed.

T. H. SONAVANE,  
*Chairman,*  
*Joint Committee.*

NEW DELHI;

*The 30th March, 1966.*

## MINUTES OF DISSENT

## I

I am constrained to append this Minute of Dissent to the Report of the Joint Committee on the Delhi Secondary Education Bill 1964 because, in my opinion, the Bill is narrow in concept, limited in scope and restrictive in character.

This, I believe, is the first piece of legislation of its kind in India which purports "to provide for better organisation and development of Secondary Education" and, it therefore, should have been comprehensive in character and based on sound and liberal educational principles. Important and fundamental areas in the field of education, however, have been completely omitted from the purview of the Bill. Thus, no provision has been made for Further and Part-time Education; for the education of pupils who require special educational treatment; for ancillary services such as medical inspection and treatment of pupils; for provision of milk and mid-day meals, nor is there specific machinery, so vitally necessary at present, (such as the Burnham Committees of Great Britain), for considering and recommending scales of remuneration of teachers.

The Bill is, in fact, limited in scope and is directed against private Secondary Schools. Power has been assumed to take over the managements of aided Schools in certain circumstances. This would be commendable in itself if Government Schools were run with even a modicum of efficiency. From my own knowledge and the evidence placed before the Joint Committee, which in my opinion was not refuted by the officials of the Education Department, it would have been honest and fair on the part of the Government to admit in the Objects and Reasons that the aim of the Bill was not only to remove the educational mote from the eye of privately managed institutions but more especially to remove the educational beam from the eye of Government-run Institutions.

In the Bill, phrases such as "in the prescribed manner," "rules as prescribed" or words to that effect, occur frequently, thus investing the Executive with undue power. When, in the field of Secondary Education, voluntary agencies have an important role, the Bill should have contained provisions in clear and unambiguous terms defining the relationship between voluntary agencies and Government. Thus

arbitrary, unregulated discretion has been vested in the Executive. Such arbitrary power is almost certain to be used by officials of varying capacity in a capricious and often oppressive manner.

In my view the most objectionable provision in the Bill is Clause 5. This clause gives the Executive the power to decide the composition and functions of Managing Committees of Schools. It is unjustifiable and unreasonable in that it fails to distinguish between recognized and aided schools; recognized and unaided schools; recognized and aided minority-run schools and recognized and unaided minority schools. Article 30 of the Constitution confers on minorities the unconditional right to administer educational institutions of their choice. By Clause 5, a cloud of uncertainty hangs over the exercise of this right, because every scheme of management must obtain the approval of the Executive, "with or without modification."

In my view, so far as minority-run Schools are concerned, the Bill seeks indirectly to interfere with the fundamental right of the minorities to administer educational institutions of their choice. If the Executive seeks to impose its nominees on the managing committees of minority-run schools, it will in my opinion, be an infringement of their fundamental right to administer the institutions according to their choice.

In the context of linguistic States, I feel that it was the duty of the Central Government in framing a Bill of this nature to include provisions which give positive encouragement to minorities to conserve their language, script and culture and not to leave them to the uncertain and capricious will of the Executive.

NEW DELHI;

A. E. T. BARROW.

*Dated the 30th March, 1966.*

## II

We are in general agreement with the main provisions of the Bill as has emerged from the deliberations of the Joint Committee, because we hope that they will go a long way in improving the management of schools in Delhi and safeguarding the interests of the teachers and students. We however are unable to agree with two amendments accepted by the committee.

Clause 11 of the original Bill dealing with the terms and the conditions of service of teachers and other employees of the aided schools

contained the provision that no teacher shall be dismissed, removed, reduced in rank or suspended without the previous sanction in writing of the Director. The word 'Suspended' was deleted by the joint committee with the result that the Bill passed by the joint committee gives the management the right to suspend a teacher even without the previous sanction of the Director. It was pointed out that such a right was necessary to meet extreme cases of indiscipline where any delay in suspending the misbehaving teacher would cause harm to the institution. The argument appeared to be correct. But then there was the possibility of this being misused by the manager in his own interests especially in view of the fact that conditions under which suspension could be resorted to were not specified. It is true that the Director has been empowered to revoke the order of suspension if he is satisfied that there were no adequate and reasonable grounds for such a suspension. But there is no time limit either for the period of suspension or for the period during which the Director is to give his verdict. We pointed out that in some of the State Education Acts there exists a provision that no teacher is to be placed under suspension for more than 15 days. But our proposal was not accepted.

We are also unable to agree with the decision of the joint committee to delete clause 21 of the original Bill. The clause reads as follows:

"It shall be lawful for the Central Government to give any direction not inconsistent with the provisions of this Act to the manager or managing committee of a school in respect of any of the following matters, namely:—(i) syllabus, (ii) Text books and other reading material, (iii) conditions of service of teachers, (iv) sanitary facilities, and (v) any other matter that may be prescribed."

This clause was deleted with the argument that it was already covered by clause 3 which deals with recognition of schools. A perusal of the said clause would show that the argument was wrong. It is true that clause 3 says that no school shall be recognized if it does not have suitable or adequate accommodation with sanitary facilities, if it does not provide for approved courses of study and efficient instruction or if it does not have teachers with prescribed qualifications. It also deals with the necessity of financial stability of the school, scheme of management, contract of service between the Managing committee and the teacher, and facilities for physical education, library service etc. But it nowhere says anything about syllabus or text-books. Approved courses of study need not include approved syllabus and approved text-books. Under such conditions it will not be

possible to maintain even a uniform system of public examinations. Clause 13 provides that for the purpose of conducting public examination all schools administered by government or a local authority and aided schools shall be affiliated to the Board and shall fulfil the conditions prescribed by the Board in this behalf. But the Director is given the right to exempt any school on the grounds of the special features and needs. And the unaided recognised schools are exempted from affiliation to the Board.

Thus by the deletion of clause 21 the Central Government gives up its right to give direction to the manager of a school in respect of syllabus and text-books and the managers of recognised schools are allowed to choose text-books and syllabus necessary for the approved courses of study.

We consider that this is a serious omission.

NEW DELHI;

*Dated the 1st April, 1966.*

K. DAMODARAN

P. K. VASUDEVAN NAIR.

### III

I am strongly against any rights given to minorities by the Constitution being encroached upon by any legislation directly or indirectly. The atmosphere which prevailed when the Constitution was being prepared subsequent to the success of the movement for Freedom and which inspired various provisions in the Constitution to protect effectively the position of minorities after freedom in our country with its composite culture, ought to continue to influence the nation's dealing with their problems and securing their interests. That is the trust we have inherited from the country's leadership which so much shaped the Constitution. If at all, the need of that same approach is even greater in these days. The rest of the nation is thus a trustee for the interests of the minorities, and the way in which we deal with them is, I humbly submit, one of the tests of Indian nationalism.

I am, therefore, against all such provisions in the Bill which may even indirectly encroach upon the rights of minorities as incorporated in the Constitution.

I think the powers given to the Administrator under clause 5 interfere with and curtail those rights. The wording of the clause needs reconsideration.

It minority schools are mal-administered, the remedy is not to abrogate the minority's fundamental rights to administer their educational institutions but to adopt other measures and take other steps for remedial purposes, short of deciding finally for them their scheme of management. The Director, the Administrator, and the Central Government have plenty of powers in regard to these other measures and steps.

I feel that clause 21 needs further examination. Parliament is being asked to give to the Central Government the authority to delegate all its powers under the Act to the Administrator or the Director. I can conceive of no circumstances under which *all* the powers of the Central Government (a) including the power being given to it under clauses 10(3) and 18(3) to hear appeals *against an order of the Administrator* and to decide those cases *finally* and (b), including the rule making power under clause 25(1) and the power to remove difficulties under clause (26) can be delegated to the Administrator or the Director.

These are all non-delegatable powers and we should not so phrase the law as to make it inconsistent with our intention. The retention of the word "all" in clause 21 is thus not desirable. This matter *also* requires re-examination.

The definition of "Inspector" in clause 2 (j) and the wording of clause (21) in the draft Bill were changed by the Joint Select Committee deliberately after much discussion to prevent the powers conferred by Parliament on a higher authority being transferred to any one *below a certain level*. This restriction does not exist in the definition of "Director" in clause 2 (f). I think the same consideration which influenced the Joint Select Committee to modify the original draft of clause 2(j) and clause 2, should lead to a similar modification in clause 2 so that the same approach is consistently maintained throughout the Bill in regard to delegation of powers by a higher authority.

NEW DELHI;

JAIRAMDAS DAULATRAM.

Dated the 1st April, 1966.

Bill No. 82B of 1964

THE DELHI SECONDARY EDUCATION BILL, 1964

(AS REPORTED BY THE JOINT COMMITTEE)

[Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.]

▲

BILL

to provide for better organization and development of secondary education in the Union territory of Delhi.

Be it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

Short title, 1. (1) This Act may be called the Delhi Secondary Education Act, extent and 1966.

commencement. (2) It extends to the whole of the Union territory of Delhi. 5

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference to the commencement of this Act in any provision thereof shall be construed as a reference to the date on which that provision comes into force. 10

Definitions. 2. In this Act, unless the context otherwise requires,

(a) "Administrator" means the administrator of Delhi appointed under article 239 of the Constitution;

(b) "aid" means any aid granted to a recognized school by the Central Government or a local authority;

(c) "aided school" means any school receiving aid out of the funds of the Central Government or a local authority;

5 (d) "Board" means the Central Board of Secondary Education;

(e) "Delhi" means the Union territory of Delhi;

10 (f) "Director" means the Director of Education, Delhi, and includes any other officer authorized by the Administrator to perform all or any of the functions of the Director under this Act;

(g) "existing employee" means an employee of an existing school whose appointment as such has been approved by the Director;

15 (h) "existing school" means a school which is in existence at the commencement of this Act and which, having been recognized by an appropriate authority, continues to be so recognized immediately before such commencement;

(i) "head of school" means the principal academic officer, by whatever name called, of a recognized school;

20 (j) "inspector" means an Inspector of Schools or any other officer not below the rank of Deputy Inspector of Schools authorized by the Administrator to perform all or any of the functions of an inspector;

25 (k) "manager" means a person appointed, or deemed to have been appointed, to be the manager under sub-section (1) of section 6 \* \* \*;

30 (l) "Managing Committee" means the committee of management constituted under the scheme of management referred to in section 5 and includes any other body charged with the management of the affairs of a school;

(m) "prescribed" means prescribed by rules made under this Act;

35 (n) "public examination" means an examination conducted by any authority recognized by the Director for such purpose;

(o) "recognized school" means a school recognized, or deemed to have been recognized, under section 3;

(p) "school" means an institution for providing secondary education and includes—

- (i) a composite school for providing primary, middle and secondary education;
- (ii) any school in which provision exists for class IX and proposals are pending for the opening of classes X and XI;
- (q) "school property" includes land, buildings, playgrounds, hostels and movable properties such as furniture, apparatus, equipment, books, maps and utensils;
- (r) "secondary education" means full or part time general, vocational, technical, special or any other type of education which leads to the secondary, higher secondary or equivalent to public examination;
- (s) "teacher" includes the head of a school.

**Recognition of schools.**

3. (1) The Director or any other authority specified in this behalf by the Central Government may, on application made \* \* \* in the prescribed form and in the prescribed manner, recognize any school: 15

Provided that no school shall be recognized if—

- (a) it does not have adequate funds to ensure financial stability; or
- (b) it does not have a duly approved scheme of management as required by section 5; or 20
- (c) it does not have suitable or adequate accommodation and sanitary facilities having regard among other factors to the number, age and sex of the pupils attending it; or
- (d) it does not provide for approved courses of study and efficient instruction; or 25
- (e) it does not have teachers with prescribed qualifications; or
- (f) there is no contract of service between the Managing Committee and each teacher or other employee of the school in accordance with such terms and conditions (excluding terms 30 and conditions relating to salaries) as may be prescribed; or
- (g) its premises or any part thereof is used as a shop, an office or a residence unconnected with the activities of the school; or
- (h) it does not have the prescribed facilities for physical 35 education, library service, laboratory work, workshop practice or co-curricular activities.\*

(2) Nothing contained in sub-section (1) shall apply to a school administered by the Government:

Provided that every such school shall comply with the conditions specified in the proviso to sub-section (1) except those specified in clauses (a), (b) and (f) of that proviso.

(3) Where recognition to a school is refused, any person aggrieved by such refusal may appeal against the order in the prescribed manner to such authority as may be prescribed in this behalf by the Central Government whose decision thereon shall be final.

10 (4) Where the management of a school obtains recognition for the school by fraud, misrepresentation or suppression of material particulars or where, after obtaining recognition, the school fails to continue to comply with any of the conditions specified in the proviso to sub-section (1), the authority granting the recognition may, after 15 giving the management of the school an opportunity of showing cause, withdraw the recognition granted to such school under sub-section (1).

(5) The recognition granted under sub-section (1) shall not by itself entitle any school to receive aid.

20 (6) Every existing school shall be deemed to have been recognized under this section:

Provided that where any such school does not satisfy any of the conditions specified in the proviso to sub-section (1), the prescribed authority may require the school to satisfy such condition within a 25 specified period and if any such condition is not so satisfied, recognition may be withdrawn from such school.

(7) Every school whose recognition is withdrawn under sub-section (4) or sub-section (6) may appeal to the prescribed authority who shall dispose of the appeal in such manner as may be 30 prescribed.

4. The Central Government shall publish on or before the first day of May of every year, in the Official Gazette, and in such other manner as may be prescribed, a list of all recognized schools.

5. (1) Notwithstanding anything in any law for the time being in force or in any instrument having effect by virtue of any such law, there shall be a scheme of management for every recognized school.

(2) The Administrator may, by notification in the Official Gazette, frame a model scheme of management (hereinafter referred to as the model scheme) for the purposes of securing organizational efficiency, financial stability and improvement in educational standards and may, by like notification, amend that scheme and a

copy of the model scheme or the amended scheme, as the case may be, shall be sent by the Director to every recognized school within fifteen days of its notification.

(3) The Managing Committee of a school may prepare and submit to the Administrator a scheme of management for such school which shall, so far as is practicable, be in conformity with the model scheme: 5

Provided that the Managing Committee of every existing school shall prepare and submit such scheme of management to the Administrator within sixty days from the publication of the model 10 scheme.

(4) The Administrator may, after considering the scheme of management submitted to him under sub-section (3) and having regard to the special features and needs, if any, of the school, approve such scheme with or without modifications: 15

Provided that if no objection or modification is forwarded by the Administrator within ninety days of the date of receipt of the scheme by him, the scheme as submitted by the Managing Committee shall be deemed to have been approved.

(5) Where the Administrator has amended the model scheme, 20 the Managing Committee of every school in respect of which a scheme of management has been approved under sub-section (4), shall within such time as may be prescribed, submit to the Administrator a revised scheme of management in conformity with the model scheme as amended under sub-section (2). 25

(6) The Administrator may, after considering the revised scheme of management submitted to him under sub-section (5) and having regard to the special features and needs, if any, of the school, approve such revised scheme with or without modifications and with effect from such date as may be specified by him. 30

(7) The scheme of management shall, among other things, provide for the constitution of a Managing Committee, by whatever name called, vested with authority to manage and conduct the affairs of the school.

(8) Subject to any rules made in this behalf and the requirements of section 6, the scheme of management of every recognized school shall specify the respective powers, duties and functions of the head of the school and of the Managing Committee of the school. 35

\* \* \* \* \*

(9) No member of any Managing Committee shall be entitled to 40 attend, vote or otherwise participate in any meeting of the committee when a charge concerning his personal conduct is under discussion.

(10) Where any person maintains more than one recognized school, there shall be a separate Managing Committee for each such school.

(11) Every recognized school shall be managed in accordance with the scheme of management approved under this section.

5 (12) Nothing in this section shall apply to schools administered by the Government or any local authority:

Provided that such schools shall be administered in such manner as may be prescribed.

6. (1) The Managing Committee constituted under section 5 of a Managers 10 recognized school \* \* \* may, appoint any member thereof to be of schools. the manager of the school:

Provided that any person functioning immediately before the commencement of this Act as a manager in respect of a recognized school having a Managing Committee \* \* \* shall be deemed to have been appointed under this sub-section but only for so long as the 15 scheme of management of the school is not approved under \* \* \* section 5.

(2) Any manager of a recognized school may resign his office by giving notice in writing of his intention so to do to the authority 20 appointing him.

(3) A copy of such notice shall be simultaneously sent by him to the Director.

(4) It shall be the duty of the manager to—

25 (a) maintain in proper and good condition the school property placed under his control by the Managing Committee;

(b) maintain such records and accounts and furnish such statements and returns as may be prescribed;

30 (c) afford all assistance and facilities as may reasonably be necessary for the inspection of the school and its records and accounts by the inspector or any authority specified in this behalf by the Director; and

(d) generally, conduct the school in accordance with the provisions of this Act and the rules made thereunder.

7. (1) No school or class in a school shall be closed by the Managers 35 Closure of Committee without notice in writing to that effect to the schools Director:

Provided that no school or class in a school shall be so closed before the expiry of the academic year in which the notice is given and such notice shall be given not less than six months before such expiry:

Provided further that no such notice shall be withdrawn without 5 the consent of the Director.

(2) If at any time after notice has been given under sub-section (1), the Managing Committee of the school informs the Director that the Committee is unable or unwilling to carry on the management of the school or class till the expiry of the academic year specified in the 10 first proviso to sub-section (1), the Director may arrange to manage the school or class during the whole or any part of the unexpired portion of such period:

Provided that no additional liability shall fall on the Government in respect of the school or class during the period in which the 15 Director so arranges to manage the school or class.

(3) Where a school or class in a school has been closed under sub-section (1) or where the Director has arranged to manage the school or class under sub-section (2) or where in respect of a school recognition has been withdrawn, the manager shall afford all reasonable 20 facilities to the Director or any authority authorised by him in this behalf to have access to, and take extracts from, all the records and accounts of the school maintained under sub-section (4) of section 6.

Punish-  
ment for  
main-  
tenance of  
false  
accounts,  
etc.

8. Any manager of an aided school who fails to comply with the provisions of clause (b) or clause (c) of sub-section (4) of section 6 25 or wilfully maintains a false statement of accounts, shall, without prejudice to any other action that may be taken against him, be liable to be removed \* \* \*:

Provided that before an order for removal of the manager \* \* \* is passed, he shall be given an opportunity to show cause against 30 such removal.

Aid to  
recog-  
nized  
schools.

9. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, and subject to such conditions as may be prescribed, pay to \* recognized schools by way of aid such sums of money as the Central Government may 35 consider necessary:

Provided that no existing school receiving aid shall be eligible for the continuance of the aid unless it complies with the prescribed conditions within such period as may be specified in this behalf.

(2) The authority competent to grant the aid may stop or suspend the aid for violation of any of the conditions prescribed \* \* \* in this behalf or for any other good and sufficient cause.

(3) The aid may cover either the full expenditure or such part of the expenditure of the school as may be prescribed \* \* \*

(4) No payment out of the aid given for salaries and allowances of teachers and other employees of the school shall be made or committed to be made for any other purpose.

(5) If the manager or the Managing Committee fails to comply with, or in any other manner contravenes, the provisions of sub-section (4), the manager or, as the case may be, the Managing Committee shall be deemed to have neglected his or its duties within the meaning of sub-section (1) of section 18.

(6) No aid shall be paid to a school which has been taken over under section 18.

10. (1) \* \* \* The manager of every aided school shall furnish to the Director by the 30th day of April each year a statement containing a list of the school property together with such particulars as may be prescribed.

20. (2) Notwithstanding anything to the contrary contained in any other law for the time being in force, no transfer or lease of any immovable property of an aided school shall be made except with the previous permission in writing of the Administrator:

Provided that where the Administrator fails to make an order within thirty days of the receipt of an application in this behalf, such permission shall be deemed to have been granted.

30. (3) Any person aggrieved by an order of the Administrator under sub-section (2) may, in such manner and within such time as may be prescribed, appeal to the Central Government whose decision thereon shall be final.

(4) Any transaction made in contravention of the order of the Administrator or, as the case may be, the decision of the Central Government shall be void.

11. (1) The terms and conditions of service (including conditions regulating recruitment) of teachers and other employees of an aided school shall be such as may be prescribed.

(2) Subject to any rule that may be made in this behalf, no teacher of an aided school shall be dismissed, removed or reduced in rank, nor shall his services be otherwise terminated without the previous sanction in writing of the Director.

(3) Where a teacher of an aided school has been suspended, the order of suspension shall forthwith be communicated to the Director who may revoke the order if he is satisfied that there were no adequate and reasonable grounds for such suspension.

(4) Any teacher of an aided school aggrieved by any order under 5 sub-section (2), or where the Director withholds sanction under sub-section (2) the management, may appeal to the prescribed authority who shall dispose of the appeal in such manner as may be prescribed.

(5) No person shall be disqualified for being appointed as, or for being, a teacher or any other employee of an aided school by 10 reason only of his religious views or of his attendance or non-attendance at any religious worship or religious instruction.

Salaries of  
teachers  
and other  
employees  
of aided  
schools.

12. (1) The salaries of teachers and other employees of an aided school shall be disbursed every month by the manager or by the prescribed authority within the prescribed time and in the prescribed 15 manner, failing which it shall be competent for the Director to disburse or arrange to disburse the full approved salary of any teacher or other employee.

(2) For the purposes of sub-section (1), it shall be lawful for the Director to recover from the manager or the Managing Committee 20 the aid paid for the payment of salaries of teachers and other employees and the Managing Committee's share, if any, towards such salaries.

(3) Where there is any dispute regarding the salary or other amounts due to a teacher or other employee, the teacher or the other 25 employee may make an application to the prescribed authority regarding the dispute and thereupon the prescribed authority shall, after giving an opportunity to the teacher or the other employee and the management to present their case, decide the matter which decision shall be binding on the teacher or the other employee and the 30 management.

\* \* \* \* \*

Affiliation.

13. For the purpose of conducting public examination, all schools administered by Government or a local authority and aided schools, except such schools as may be specifically exempted by the Director 35 on the grounds of the special features and needs, if any, of such schools, shall be affiliated to the Board and shall fulfil the conditions prescribed by the Board in this behalf.

14. No \* school shall except with the prior approval in writing of the Director levy any fee or \*\* charge nor at a rate exceeding the prescribed rate and such fees and other charges may be collected and accounted for in the prescribed manner: Fees.

5 Provided that fees and charges for unaided schools may be at rates different from those for aided schools.

15. (1) \*No child who has not attained the age of five years shall be admitted to class I or equivalent class in a Government or recognized school. Admission to schools.

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\* \* \* \* \*

(2) Admission to aided schools, including the number to be admitted into a school or any class thereof, shall be subject to such rules as may be prescribed.

16. (1) In every aided school, there shall be a fund to be called the "School Fund" to which shall be credited— School Fund and other funds.

- (a) all aid paid to the school;
- (b) income accruing to the school by way of fees and other charges; and
- (c) the Managing Committee's contribution towards the expenses of the school.

20 (2) All contributions, endowments, donations and the like, for the maintenance, development and improvement of the school shall be credited to a Management's Reserve Fund to be spent on the school.

25 (3) An aided school may, with the approval of the Director, also establish for the purposes of the school a Pupils' Fund, a Development Fund and any other special fund.

(4) The School Fund and the other funds established under sub-sections (2) and (3) shall be accounted for and operated upon in the prescribed manner.

30 17. (1) Every recognized school shall be inspected at least once a year in the prescribed manner. Inspection.

(2) The Director may also arrange special inspection of any school on such aspects of its working as may, from time to time, be considered necessary by him.

(3) The Director may give directions to the manager requiring the manager to rectify any defect or deficiency found at the time of inspection or otherwise in the working of the school.

(4) If the manager fails to comply with any direction given under sub-section (3), the Director may, after considering the explanation or report, if any, given or made by the manager, take such action as he may think fit, including—

(a) stoppage of aid, and

5

(b) withdrawal of recognition.

(5) The Managing Committee of any school in respect of which aid is stopped or suspended under sub-section (4) of this section or under sub-section (2) of section 9 may appeal to the prescribed authority who shall dispose of the appeal in such manner as may be prescribed.

10

**Taking over of aided schools.**

18. (1) Whenever it appears to the Administrator that the manager or Managing Committee of any aided school has neglected to perform any of the duties imposed by or under this Act, and that in the public interest it is expedient to take over the management of the school, he may, after giving the manager or, as the case may be, the Managing Committee reasonable opportunity of showing cause against the proposed action, take over the management of that school for a period not exceeding five years.

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(2) After taking over the management of any school under this Act, the Administrator may arrange to manage the school through the Director or any other person as may be considered expedient from time to time.

20

(3) Where the management of any aided school has been taken over under sub-section (1), the Managing Committee of the school may, within three months of the date of the taking over, appeal to the Central Government which may, after considering the representation made by the Managing Committee, pass such order, including an order for the restoration of the management or for the curtailment of the period of taking over, as it may deem fit.

25

30

(4) Where the management of any aided school has been taken over under this Act, the Administrator shall pay such rent for the building of the school, if any, to the person entitled to receive it as was being paid by the management before the taking over.

(5) During such period as any aided school remains under the management of the Administrator under this Act—

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(i) the approved conditions of service of the existing employees of the school shall not ordinarily be adversely affected;

(ii) all educational facilities which the school had been affording immediately before such taking over shall ordinarily continue to be afforded; and

(iii) the School Fund shall continue to be available to the Administrator for being spent on the school.

5 (6) The Central Government may, if it deems it expedient, of its own motion or on the application of the previous management, discontinue a school taken over under this Act, and on such discontinuance the liability of the Central Government to run the school shall cease.

(7) Any order made or direction given under this section shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or instrument relating to the management of the school.

15 (8) Nothing in this section shall apply to minority schools.

*Explanation.*—In this sub-section “minority schools” means schools of their choice established and administered, or managed, by such minorities as have the right to do so under article 30 of the Constitution.

20 19. The Central Government shall, while taking over the management of any school, exempt any immovable property from being so taken over if such property is being used for any religious purpose, or if the Central Government is satisfied that such property on account of its proximity to any buildings of worship should be exempted. Exemption of immovable property.

25 20. (1) There shall be an Advisory Committee to advise the Director in respect of such matters arising out of this Act as may be referred to it by the Director or by any three members of the Committee:

30 Provided that the Director shall not decide any of the following matters without consulting the Advisory Committee, namely:—

(a) refusal or withdrawal of recognition of a school under section 3;

(b) any action against the manager; and

(c) any action under sub-section (4) of section 17;

35 Provided further that if the Director does not accept the advice of the Advisory Committee on any matter specified in the foregoing proviso, it shall be referred to the Administrator for his decision.

(2) The constitution of the Advisory Committee, the number and term of office of members thereof, the procedure to be followed in the conduct of business by that Committee and all other matters relating to that Committee shall be such as may be prescribed:

Provided that the Advisory Committee shall include educationists, 5 Members of Parliament and representatives of managements of schools and teachers.

\* \* \* \* \*

21. The Central Government may delegate all or any of its powers, duties or functions under this Act to the Administrator or the Director. 10

Delega-  
tion.

Exemp-  
tion.

22. If the Central Government is of opinion that it would not be expedient to make the provisions of this Act applicable to any school having regard to its financial resources, character, location or other relevant considerations, it may, by notification in the Official Gazette, 15 exempt such school, either generally or subject to such conditions, if any, or for any period to be specified in the notification, from all or any of the provisions of this Act.

Protection  
of action  
taken in  
good  
faith.

23. No suit, prosecution or other legal proceeding shall lie against the Central Government, the Administrator or any authority or \* 20 officer appointed or specified by or under this Act for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

Bar of  
jurisdi-  
ction.

24. No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Central Government, 25 the Administrator or any officer or authority appointed or specified by or under this Act is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act. 30

Power to  
make  
rules.

25. (1) The Central Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following 35 matters, namely:—

(a) the form and manner of making an application for re-  
recognition of a school;

(b) the qualifications for teachers;

(c) the terms and conditions of the contract of service between the Managing Committee and each teacher or other employee of the school;

5        (d) the facilities for physical education, library service, laboratory work, workshop-practice or co-curricular activities to be provided in a recognized school;

10        (e) the authority to which and the manner in which an appeal may be preferred under sub-section (3) of section 3;

15        (f) the authority to which an appeal shall lie under sub-section (7) of section 3 and the manner of disposal of such appeal;

20        (g) the manner of publication of the annual list of all recognized schools under section 4;

25        (h) the administration of schools administered by the Government or a local authority;

30        (i) the records and accounts to be maintained and the statements and returns to be furnished under clause (b) of sub-section (4) of section 6;

35        (j) the conditions for the grant of aid to recognized schools under section 9 and matters connected therewith;

40        (k) the particulars to be contained in the statement to be furnished to the Director under sub-section (1) of section 10 regarding the school property;

45        (l) the manner in which and the time within which an appeal shall lie to the Central Government under sub-section (3) of section 10;

50        (m) the authority to which an appeal shall lie under sub-section (4) of section 11 and the manner of disposal of such appeal;

55        (n) the terms and conditions of service (including conditions regulating recruitment) of teachers and other employees of aided schools;

60        (o) the authority who shall disburse the salaries of teachers and other employees of an aided school under sub-section (1) of section 12, the time within which and the manner in

which the same shall be disbursed and the authority to which an application may be made under sub-section (3) of that section;

(p) the rate exceeding which any fee or other charges shall not be levied by a school and the manner of collection and accounting of the fees and other charges; 5

(q) the admission to aided schools;

(r) the manner of accounting and operation of the School Fund and all other funds under \* \* \* section 16;

(s) the manner of inspection of recognized schools; \*

(t) the authority to which an appeal shall lie under sub-section (5) of section 17 and the manner of disposal of such appeal; 10

(u) the constitution of the Advisory Committee, the number and term of office of members thereof, the procedure to be followed in the conduct of business by that Committee and all other matters relating to that Committee; and 15

(v) any other matter which is to be, or may be, prescribed or provided for under this Act.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 25

Removal  
of diffi-  
culties.

26. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the purposes of this Act, as may appear to it to be necessary or expedient for removing the difficulty.

S. L. SHAKDHER,  
*Secretary.*